

Review of Waiver Processing
Report No. 99-02, October 15, 1998

This report represents the results of a review by the Office of Inspector General (OIG) related to the processing of waivers. The Railroad Retirement Board (RRB) authorizes the waiver of certain debts arising from benefit overpayments.

Background

The identification of a benefit overpayment results in the recording of an account receivable by the RRB. The debtor may request that the overpayment be waived.

Waivers represent the exercise of the Board's authority, as provided under the Railroad Retirement Act (RRA) and the Railroad Unemployment Insurance Act (RUIA), to not seek reimbursement for a benefit overpayment. Section 10 of the RRA and Section 2 of the RUIA provide the waiver authority. The general requirement under each Act is that the individual is without fault and "...in the judgment of the Board, recovery would be contrary to the purpose of the Act or would be against equity or good conscience." The Board may waive a benefit overpayment in whole or in part. In addition to waiver of an overpayment, the Board can waive its right to a particular method of recovery.

The Debt Recovery Division (DRD) of the Bureau of Fiscal Operations is responsible for the processing of waiver requests. If DRD denies the request, the debtor can appeal to the Bureau of Hearings and Appeals (BHA), then to the Board, and ultimately to the Federal Courts. Several types of waivers are available including regular waivers, pre-recovery waivers, blanket waivers and Crissinger, Bodle and Wood (CBW) waivers. CBW waivers apply only to a portion of an overpayment under specific circumstances. Blanket waivers are granted where a mechanical error or incorrect interpretation of law causes the overpayments. The RRB rarely uses blanket and CBW waivers.

The difference between the pre-recovery and regular waivers is that the debtor must initiate the request under the regular waiver procedures. A pre-recovery waiver was granted prior to recovery action. The Board rescinded pre-recovery waiver authority effective September 30, 1996. DRD determined the eligibility for pre-recovery waiver after an initial screening by claims examiners.

DRD automatically granted a pre-recovery waiver if the overpayment resulted from administrative or Board error and the overpayment had been undetected for over four years.

The RRB granted the pre-recovery waiver on the basis that recovery would be against equity and good conscience. In certain pre-recovery cases the actual overpayments were estimated based upon the characteristics of the case.

DRD reports indicated that it processed approximately \$9.2 million in waivers during fiscal 1996. This compares with \$15.0 million and \$12.2 million in the preceding two years.

Scope and Methodology

The objectives for this review were to determine if the RRB has reduced the inventory of waiver requests as a method of improving the timeliness of waiver processing and if Board procedures are being consistently applied. This review considered regular waivers, pre-recovery waivers and waivers granted through the appeals process.

To accomplish these objectives the OIG:

- reviewed background information including laws, regulations and RRB procedures,

- reviewed two randomly selected samples which included 150 of the pre-recovery waivers processed by the DRD during fiscal year 1996,

- tested the 42 pre-recovery waivers in excess of \$10,000 that were processed by DRD during the last four months of fiscal year 1996,

- selected for detailed testing a random sample of 50 waivers among those approved by the BHA during fiscal year 1996,

- reviewed a random sample of 50 of the regular waivers approved by DRD during fiscal year 1996, and

- reviewed the four waivers of benefit overpayments approved during fiscal year 1996 that had been appealed to the Board.

The OIG conducted the audit in accordance with generally accepted government auditing standards. Auditors performed the field work at the RRB headquarters office in Chicago, Illinois from March 1997 through August 1998.

Results of Review

The review indicated that waivers are being processed in accordance with Board procedures. The number of waivers pending in DRD has been reduced from 2,746 at the end of January 1995 to 600 at the end of fiscal year 1996 and 431 at the end of fiscal year 1997.

BHA has also reduced the number of pending waiver decisions from 1,628 at the end of January 1996 to 1,165 at the end of fiscal year 1996. The number of pending waiver requests in BHA was further reduced to 767 at the end of fiscal year 1997.

DRD should make certain improvements to increase efficiency and strengthen internal controls with respect to processing of waivers. The OIG review indicated that:

--Not all debtors eligible for pre-recovery waivers received the same waiver consideration.

--An independent database file used to record estimated pre-recovery waivers contained invalid claim numbers.

Specific details and OIG recommendations are presented in the following sections of the report.

Review of Debtor Files

Several waiver requests, included in the testing, could have been processed more efficiently if the pre-recovery waiver standards had been applied rather than the regular waiver procedures. In three of fifty cases reviewed, 6% of the sample, we noted that the case satisfied the criteria for a pre-recovery waiver. The Debt Recovery Manager advised that, if the RRB mailed an overpayment notice in these cases, DRD would process a subsequent waiver request as a regular waiver rather than apply the pre-recovery procedures.

It would have been more efficient if the RRB processed the debt under the pre-recovery provisions rather than require the annuitant to initiate the waiver process. Pre-recovery waiver would have avoided further handling by the RRB.

Individuals who received a billing notice for an overpayment may not have requested waiver of the overpayment. The overpaid individual may have paid or may be repaying a debt that should have been waived under the pre-recovery waiver authority. This situation results in different treatment for individuals although the facts in each case are the same. Since the Board rescinded the pre-recovery authority as of September 30, 1996, this will not represent a problem in the future.

Recommendation No. 1

The OIG recommends that the DRD review its outstanding debtor files to determine the extent to which individuals may be repaying debt that would have satisfied the criteria for pre-recovery waiver. The DRD should report its findings to the Board with a recommendation on whether the RRB should waive the remaining debt.

Management's Response

Management does not agree with the recommendation. They believe that administrative finality procedures should prevent the review of cases that had not been considered for pre-recovery waiver. In addition management disagreed with the OIG conclusions because the review did not include waiver denials and cases in which waiver was not requested.

OIG Comments

The OIG considers the recommendation to be valid because the cases for which pre-recovery waiver would apply preceded the issuance of administrative finality procedures. There may also be a continuing adverse impact if a debtor is continuing to make installment payments. Our conclusions were based upon the results of a random sample of approved waivers, which was consistent with the scope of the review. The OIG recommendation is that management review the cases in which the debtor did not request waiver so that they can measure the extent of any errors.

Recording of Pre-recovery Waivers

DRD processed pre-recovery waivers in two ways. For five specific overpayment causes, DRD estimated the amount the RRB has overpaid using calculations developed by the Chief Actuary. DRD grouped the estimated pre-recovery waivers by cause code each month and recorded a single entry in the Program Accounts Receivable system (PARS) for these waivers. DRD maintained a separate database file that included the claim number related to the estimated pre-recovery waivers. For all other pre-recovery waivers the actual overpayment was calculated and the amount entered on PARS under the annuitant's claim number.

In two random samples of estimated pre-recovery waivers, we were initially unable to identify seven claim folders because of incorrect entries in the database file maintained by DRD. The data errors included two claim files in the first sample and five claim files in the second sample.

The Debt Recovery Manager was able to locate one of the files in the first sample by referring to another system. In that case, DRD used a beneficiary's social security number rather than the railroad annuitant's claim number to record the waiver. The second file was located by reviewing a subsequent entry on the extract of the database file that DRD had provided.

The second sample also included the same file for which DRD used the beneficiary's social security number. DRD was unable to determine the correct claim number for the remaining four items selected. As a result there is no way to verify that these cases involved overpayments.

Claim number references should represent a valid record. The claim numbers used in the database should be accurate so that activity relative to a particular waiver and claim can be verified.

Recommendation No. 2

The OIG recommends that DRD establish procedures to reconcile any independent databases to a file of valid claim numbers. This will enable DRD to detect incorrect entries and make any necessary corrections.

Management's Response

Management concurs with the recommendation.